S.B. Civil Misc. Appeal NO.695/2005
Smt. Kamla
vs
None

DATE OF ORDER : - 23.8.2005

HON'BLE MR. PRAKASH TATIA,J.

Mr.Sandeep Saruparia, for the appellant.

<><><>

Heard learned counsel for the appellant and perused the record.

The appellant is aggrieved against the order dated 5.8.2004 by which the learned District Judge, Rajsmand dismissed the appellant's application filed for obtaining succession certificate for getting pensionary benefits as according to appellant her husband Bagwan Singh was in service and he was getting pension. After her husband's death the appellant became entitled for the benefit of the family pension. The trial court observed that according to the documents produced by the appellant herself, the deceased Bhagwan Singh retired from service in the year 1984. He in his pension papers disclosed that one Smt. Chandi Bai is his wife. Bhagwan Singh himself received the pension from the year 1984 to 1994 and, thereafter, for about 8 to 9 years family pension was paid to said Smt. Chandi Bai, but the appellant-applicant submitted application for grant of succession certificate in the year 2004, i.e.,

after about 10 years from the death of Bhagwan Singh. Therefore, the trial court rejected appellant's application filed under Section 372 of the Indian Succession Act.

According to learned counsel for the appellant, the court below has committed serious error of law in dismissing the appellant's application for grant of succession certificate as the appellant produced witnesses to prove that she is wedded wife of the deceased Bhagwan Singh and nobody objected against the claim of the appellant. In view of the above, when there was unrebutted evidence available on record, the court should have granted succession certificate in favour of the appellant.

I considered the submissions of learned counsel for the appellant and perused the record also. It is clear from the facts mentioned above itself that according to appellant herself the deceased Bhagwan Singh was in service at Indore and he retired from service in the year 1984. According to appellant, said Bhagwan Singh died on 2nd Nov., 1994. The appellant also admitted in her petition itself that Bhagwan Singh disclosed one Chandi Bai as his wife before the department and she was getting the pensionary benefits. Smt. Chandi Bai died as mentioned in the petition filed by the appellant herself before the court below and, thereafter, she submitted this petition for getting pensionary benefits.

It is further relevant to mention here that none of the legal representatives of Smt. Chandi Bai has been impleaded despite the fact that admittedly it was in the knowledge of the appellant herself that Chandi Bai was disclosed as wife of the deceased Bhagwan Singh in service record and that position continued at least for more than 10 years because Bhagwan Singh retired in the year 1984 and died in the year 1994 and, thereafter, Smt. Chandi Bai was getting pension.

In view of the above important fact and in view of the fact that appellant submitted the application for grant of succession certificate for getting the benefit of family pension of deceased Bhagwan Singh, who was working at Indore, the court below rightly rejected the appellant's application and rightly did not rely upon the mere word of mouth of the appellant and her witnesses.

Apart from above, it will be worthwhile to mention here that the appellant failed to disclose how the court at Rajsmand had jurisdiction to pass appropriate order on appellant's application for grant of succession certificate for a person, who died in Madhya Pradesh and after his death pensionary benefits were paid in the State of Madhya Pradesh only. Therefore, I do not find any illegality in the order passed by the court below.

Hence, the appeal of the appellant is dismissed.

(Prakash Tatia), J.

c.p.goyal/-